

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
SEPTEMBER 5, 2000 - 7:00 P.M.**

ROLLCALL Answering rollcall were Members Faust, Hovland, Johnson, Kelly, and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Johnson and seconded by Member Hovland approving the Council Consent Agenda as presented.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

***MINUTES OF THE REGULAR MEETINGS OF AUGUST 15, 2000, APPROVED** Motion made by Member Johnson and seconded by Member Hovland approving the Minutes of the Regular Meeting of the Edina City Council on August 15, 2000.

Motion carried on rollcall vote - five ayes.

BOY SCOUT TROOP 123 WELCOMED Mayor Maetzold noted the presence of Boy Scout Troop 123 and their leader from Shepherd of the Hills Church who are working on their Citizenship in the Community merit badge.

***PUBLIC HEARING DATE SET OF OCTOBER 3, 2000, FOR PLANNING MATTER** Motion made by Member Johnson and seconded by Member Hovland setting October 3, 2000, for Planning Matter:

- 1) Preliminary Rezoning - R-1, Single Dwelling Unit District to PCD-1, Planned Commercial District (Edward and Lisa Noonan)

Motion carried on rollcall vote - five ayes.

***RESOLUTION NO. 2000-87 LOT DIVISION APPROVED FOR 3205/3219 WEST 60TH STREET (STEVEN M. PAQUIN AND JEFF MILLER)** Motion made by Member Johnson and seconded by Member Hovland, approving the following resolution:

RESOLUTION NO. 2000-87

A RESOLUTION

APPROVING A LOT DIVISION FOR

3205/3219 WEST 60TH STREET

WHEREAS, the following three properties are described as separate parcels at present:

PARCEL A:

Lot 2, Loken's Addition, Hennepin County, Minnesota.

PARCEL B:

Commencing at a point 586.674 feet West of the Northeast corner of the South ½ of the Southwest ¼; thence South 161 feet; thence North 161 feet; thence West 55 feet to the point of beginning.

Combined with platted Torrens property (not adjacent to divided parcel):
The North 128 feet of Outlot 1, Loken's 3rd addition.

PARCEL C:

The West 11.94 feet of the East 531.674 feet of the North 161 feet of the Southeast Quarter of the Southwest Quarter of Section 20, Township 28, Range 29, Hennepin County, Minnesota.

WHEREAS, the owner of Parcel A has requested the lot division as follows:

PARCEL A:

Lot 2, Loken's Addition, Hennepin County, Minnesota will now include the West 5.747 feet of the East 525.927 feet of the North 161 feet of the Southeast Quarter of the Southwest Quarter of Section 20, Township 28, Range 29, Hennepin County, Minnesota and

WHEREAS, the owner of Parcel B has requested the lot division as follows:

PARCEL B:

Commencing at a point 586.674 feet West of the Northeast corner of the South ½ of the Southwest ¼; thence South 161 feet; thence North 161 feet; thence West 55 feet to the point of beginning and will now include the West 5.747 feet of the East 531.674 feet of the North 161 feet of the Southeast Quarter of the Southwest Quarter of Section 20, Township 28, Range 29, Hennepin County, Minnesota and

Combined with platted Torrens property (not adjacent to divided parcel): the North 128 feet of Outlot 1, Loken's 3rd addition.

WHEREAS, the requested subdivision is authorized under Code Section 810 and it has been determined that compliance with the Subdivision and Zoning Regulations of the City of Edina will create an unnecessary hardship and said newly created Parcels as separate tracts of land do not interfere with the purpose of the Subdivision and Zoning Regulations as contained in the City of Edina Code Sections 810 and 850;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Edina that the conveyance and ownership of the above described tracts of land (PARCEL A and PARCEL B) as separate tracts of land are hereby approved and the requirements and provisions of Code Sections 850 and 810 are hereby waived to allow said division and conveyance there of as separate tracts of land but only to the extent permitted under Code Sections 810 and 850 subject to the limitations set out in Code Section 850 and said Ordinances are now waived for any other purpose or as to any other provisions thereof, and further subject, however, to the provision that no further subdivision be made of said Parcels unless made in compliance with the pertinent Ordinances of the City of Edina or with the prior approval of this Council as may be provided for by those Ordinances.

Adopted this 5th day of September, 2000.

Motion carried on rollcall vote - five ayes.

***BID AWARDED FOR REEL GRINDER FOR BRAEMAR GOLF COURSE** Motion made by Member Johnson and seconded by Member Hovland for award of bid for a reel grinder for Braemar Golf Course to recommended low bidder, North Star Turf, at \$16,450.00.

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2000-92, PUBLIC HEARING HELD ON CABLE TELEVISION FRANCHISE APPLICATIONS FOR WideOpenWest Minnesota, L.L.C., AND RESOLUTION NO. 2000-93, PUBLIC HEARING HELD ON CABLE TELEVISION FRANCHISE APPLICATION FOR EVEREST CONNECTION CORPORATION Manager Hughes introduced Tim Gustin of Moss and Barnett Law Firm who provided an overview of the process, presented the findings from the commission and summarized the report prepared by Moss and Barnett.

Tim Gustin, explained the law firm had been retained by the City of Edina and the Southwest Suburban Cable Commission to review the qualifications of the two cable television applicants, WideOpenWest (WOW) and Everest Connections. In the review, relevant statutory procedures were followed. Each applicant had to possess three qualification standards: legal, technical and financial; in order to construct, own and operate a cable communications system within Edina.

Mr. Gustin said both applications were similar, as both are start-up companies. Legally, both companies have stipulated that they are qualified to do business in the State of Minnesota as owners and operators of a cable system. Because both are start-up companies, neither has a record of accomplishment and making it difficult to state their technical qualifications. Mr. Gustin added the management teams for both companies were impressive. He continued stating it would be difficult to ascertain the financial qualifications for either company. Typically past performance would be examined and compared to other providers but with two start-up companies this cannot be done. However, he added both companies have raised significant capital and shown promise with other resources in various ways. Other jurisdictions have requested a significant performance bond to protect them in case the project would not be completed.

Mr. Hughes said he understood there was a basic legal principle from the FCC requiring the City to take steps fostering competition. He asked what steps the City would follow if they approve resolutions. Mr. Gustin replied the FCC and various courts encourage competition, which lowers prices, and increases the level of service. If the resolutions are adopted, the next step would be negotiating with both providers for a franchise agreement. Minnesota law requires the franchise agreement be no less favorable or no more burdensome than that granted to the incumbent provider, Time Warner. Mr. Hughes asked if this would be implemented by way of an ordinance at a later date. Mr. Gustin responded affirmatively.

Council comments

Member Faust said she understood if a company has all the necessary qualifications they cannot be denied the right to install a cable system. She asked if there was a limit to the

number of companies that could be granted a franchise. Mr. Gustin answered more companies could request franchises. Member Faust asked if the companies could be required to co-locate. Mr. Gustin said co-location may be encouraged but not be required. The City's right-of-way ordinance must be followed by any provider. Member Faust asked if a company could wire one-half of the City. Mr. Gustin said the franchise document could require full-city performance. The City would have remedial provisions it could take in addition to being protected by a performance bond. Member Faust asked if provider would offer different programming. Mr. Gustin answered programming is up to each franchisee, but the City may require local access availability. Member Faust asked if other cities are being asked for approval. Mr. Gustin answered that all the cities in the Southwest Cable Commission have been approached.

Member Johnson asked if any cities have refused the franchise requests. Mr. Gustin said no. Member Johnson asked why better-financed applicants have not applied. Mr. Gustin said all the larger providers were already up and running. Mr. Johnson said the large start-up capital costs must be underwritten in their subscription fees. Mr. Gustin said if an adequate performance bond was in place, the companies should be allowed to take the risk. The performance bond will cover any work left unfinished. Member Johnson asked if the City could be held responsible for any costs associated with a failure of either company. Mr. Gustin responded that the performance bond would cover such failures. Member Johnson asked if other areas have two cable providers. Mr. Gustin said locally there are two providers in the St. Cloud area, but many larger cities have competing providers. Member Johnson asked if Mr. Gustin believed these proposals would be approved by all the cities. Mr. Gustin believed most cities would approve the proposals. The downside of the proposal was the disruption of rights-of-ways during the installation process.

Member Hovland asked what an adequate performance bond would be. Mr. Gustin said at present Time Warner has a bond with a limit of \$300,000 which reduces to \$100,000 when the system was complete. Mr. Gustin said he believed the new franchisees' bonds need to be higher. Member Hovland asked if WOW and Everest were aware of the proposed amount of performance bonds. Mr. Gustin said yes. Member Hovland asked if either company has presented financial statements or pro-formas. Mr. Gustin said confidential projected financials were presented. Because they are new companies the documents show funds that have been raised from various sources. Member Hovland asked what was the ratio of debt to equity financing. Mr. Gustin said he was not aware of the ratio. Member Hovland asked if the franchise would preclude control programming. Mr. Gustin responded that all that can be controlled was the mix of programming, not the content. Member Hovland asked about prohibiting adult channels. Mr. Gustin said federal law prohibits controlling specific channels. Member Hovland asked if the ordinance would include a timeline for completion of the project. Mr. Hughes said the ordinance was the vehicle used to award the franchise. Mr. Gustin said it would be similar to the granting of the Time Warner franchise.

Mayor Maetzold said he read in the documents that 60 months would be allowed for completion of the project but he did not see this in the resolution. Mr. Gustin said the

timeline would need to be fine-tuned but the estimates provided by WOW and Everest was 60 months. Mr. Hughes explained the resolution validates the qualifications of the applicants. Issues such as time to complete and bond requirements, etc., take the form of the agreement and ordinance and would be adopted at a later date.

Mr. Hughes said the Sunday Star Tribune had an informative article on the issue of over-building in providing a second cable system. The conclusion of the article was that there was a lot of over-building going on but the jury was out on how deep the market was and how many over-builders could be supported in any metropolitan area. He clarified that the City cannot mandate Time Warner to retail-wheel new franchisees signal over their infrastructure similarly, to what happens with long-distance carriers. Mr. Gustin stated the right-of-way ordinance would address to what extent co-location could be allowed. Member Johnson asked if that was a matter of negotiation. Mr. Gustin said it was a matter of negotiation.

Member Hovland asked for clarification on the resolutions as presented. Mr. Hughes clarified that Exhibit "D" was similar to the resolution adopted for the cable commission. The document makes it more particular to the City of Edina rather than the cable commission.

Member Faust said she envisions building more skyways rather than tunnels with the amount of equipment installed under the streets.

Member Johnson asked if the proposed providers will be using fiber-optics or conventional lines. Mr. Gustin said they would use fiber-optics. The trend would be to have internet, cable, telephone, etc., from one provider. Member Johnson asked if the proposed franchisees will be in competition with Time Warner and USWest and other phone providers. Mr. Gustin said yes.

Member Hovland asked clarification about language in the resolution that, 'an ordinance awarding a franchise should be introduced to the City Council for consideration and action'. He suggested the word 'potentially' be added to the phrase preceding the word awarding. Mr. Gustin noted that once the proposed franchisee was qualified on the three fronts, there would be an obligation to award and grant the franchise.

Member Johnson asked if the resolutions were adopted at this time was it a done deal. Mr. Gustin said the franchise document would need to be drafted and approved by the Council. Member Johnson said in essence if this was approved at this time, there will be two new franchisees in the City without us having knowledge of their financial condition. Member Kelly added that was what the FCC meant when they passed the telecommunications act. Mayor Maetzold reiterated that much of this has been all guided by federal law. Member Hovland voiced concern if a franchise was approved and then was never acted upon by the franchisee. He questioned what would happen if someone objects to the award of the franchise while they hold a license to put a franchise in place. Mr. Gustin said negotiations would take as long as necessary but time restrictions could be imposed for a completion date. Member Kelly said technically, the analysis has taken place, the Southwest Cable Commission counsel has said both companies meet qualifications. Modest requests can be

made to the providers but it would really be a rubber stamp. Member Hovland says he saw a distinction between established companies and start-up companies in that established companies have proven fitness. He voiced concern that there would be a lack of control without an ordinance in place. Member Kelly said there was no aesthetic quality here like there was antennas because everything was under the street. The only way a legitimate claim can be made would be if it poses a risk to health, safety and welfare of our citizens.

Member Hovland voiced additional concern. Attorney Gilligan said the control will be in the franchise agreement that sets forth terms and requirements of the performance bond. If the performance bond were not posted, the franchisee would be in violation of the ordinance and the franchise could be cancelled at that point. Member Johnson asked if a cancellation would be done by the Commission or individual cities. Mr. Gustin said the process would start with the Commission but be completed by each city. Member Johnson asked if the Edina City Attorney would be involved in the negotiations. Attorney Gilligan elaborated that Moss and Barnett would negotiate the model franchise ordinance with each cable company, it would be approved by the Commission and then go to the cities for individual adoption. Member Johnson asked if each city would have a separate bond. Mr. Gustin responded yes. Mr. Hughes noted the first call he received was from WideOpenWest and passed them on to the Southwest Cable Commission after asking if they were interested in operating in all five cities. He concluded that the City has an obligation to allow these sorts of providers to use our rights-of-way to build these systems. We further have an obligation to say it has to be done on the basis of a level playing field and that the new operators are given a better or worse deal than the incumbent enjoys here. He believes the requests being considered have looked at the existing franchise with Time Warner and are bargaining correctly that their franchise agreement was going to be identical in order to comply with the law. The issues on the new franchises are finite in nature. He suggested thinking big issues like franchise fees, and public access availability that must be consistent between the three providers. Things like performances bonds are more up for negotiation. Member Johnson inquired whether the Commission regulates fees charged by the providers. Mr. Gustin said the Commission does but was enforced by each city's individual franchise. Member Faust said this competition was welcome and thanked them for taking the risk to come here.

Public comment

Betsy Edwards, WideOpenWest, said she understood approval of the resolution grants permission to negotiate a franchise agreement. She explained that WOW has plans to bring the capability of high-speed internet to the City. It will consist of fiber and be an 'always on' connection that is very fast. The internet connection will be open-access allowing residents to chose their internet provider. WOW will offer fantastic CATV as well with new features never before offered. IP protocol telephony or phone calls made over the internet will also be offered. WOW's presence will foster competition and the existing provider will perk up their service in an attempt to maintain their subscribers. The WOW management team comes mainly from RCN with systems in operation in the eastern states. WOW's plan was to have as little disruption of land as possible.

Jed Jenkins, 5708 Olinger, asked what the cost will be for the internet service. Ms. Edwards estimated the cost at \$35 - \$39 per month. If other services are purchased as well there was a package discount.

Member Kelly made a motion to close the public hearing on the application for cable television franchise from WideOpenWest MINNESOTA, L.L.C. Member Johnson seconded the motion.

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

Member Kelly introduced the following resolution and moved its approval:

RESOLUTION NO. 2000-92

**A RESOLUTION REGARDING RECOMMENDATIONS
WITH RESPECT TO WideOpenWest Minnesota, L.L.C's
PROPOSAL FOR A CABLE COMMUNICATIONS FRANCHISE**

WHEREAS, Minnesota Statutes § 238.08(a) mandates that the City require a franchise for any cable communication system providing service within the City; and

WHEREAS, Federal law at 47 U.S.C. § 541(a) provides that a city "may not unreasonably refuse to award an additional competitive franchise"; and

WHEREAS, the City carefully followed the franchise procedure required by Minnesota Statutes § 238.081 by publishing once each week (June 21, 2000, and June 28, 2000) for two successive weeks in the Sun-Current, a Notice of Intent to Franchise a Cable Communications System; and

WHEREAS, the Notice stated all eight (8) criteria outlined in Minn. Stat. § 238.081 Subd. 2; and

WHEREAS, in addition to the published Notice, the City mailed copies of the Notice of Intent and the Official Application Form to WideOpenWest ("WOW"), as well as other interested parties; and

WHEREAS, the City's Official Application Form required that proposals for a cable communications franchise contain responses to each of the items identified in Minnesota Statute § 238.081 Subd. 4; and

WHEREAS, the City's closing date for submission of applications was set at July 14, 2000, which complied with the statutory minimum of 20 days from the date of first publication; and

WHEREAS, the City Council determined to call a Public Hearing to consider the application received from WOW at its regularly scheduled September 5, 2000, meeting; and

WHEREAS, all interested parties were provided an opportunity to speak to the City Council. The City Council imposed no time limitations or other constraints on presenters, and interested parties had every opportunity to present information regarding this matter; and

WHEREAS, the City carefully reviewed all information and documentation presented to it regarding WOW's proposal and qualifications to construct, own and operate a cable communications system within the City; and

WHEREAS, the City, as a member of the Southwest Suburban Cable Commission ("Commission"), retained the law firm of Moss & Barnett, a Professional Association to assist the Commission and City in conducting the procedure required under Minnesota Statutes §238.081 and reviewing the application submitted by WOW as well as comments and information from interested parties; and

WHEREAS, based on information and documentation made available to the City, the report dated August 3, 2000, prepared by Moss & Barnett with respect to WOW's application and the recommendation of the Commission, each of which is hereby incorporated in this Resolution by reference, the City Council has reached conclusions regarding WOW's legal, technical and financial qualifications.

NOW THEREFORE, the City hereby resolves as follows:

1. The City hereby finds that WOW's application of July 14, 2000, complies with the requirements of Minnesota Statute § 238.061; and
2. The City finds that WOW possesses the requisite legal, technical and financial qualifications to construct, own and operate a cable communications system within the City; and
3. The City has determined that an ordinance awarding a franchise to WOW should be introduced to the City Council for consideration and action; and
4. The contents of the franchise should be substantially the same as the franchise ordinance currently held by the City's existing cable television operator, KBL Cablesystems of the Southwest, Inc., doing business as Time Warner Cable ("Time Warner"), throughout the existing term of Time Warner's franchise which will expire on or about December 31, 2011.
5. A construction bond should be required of WOW as part of any franchise award to provide the City with security in the event damage to the City's rights-of-way should arise which WOW is unwilling or unable to cure.
6. Subject to all applicable laws, the City shall regulate the provision of cable television services within the City in a competitively neutral manner and shall enforce the terms and conditions of all cable communications franchises in accordance with all applicable laws and regulations in a consistent manner against all franchised cable operators so that no one operator is given an unfair competitive advantage over the other.
7. The City finds that its actions are appropriate and reasonable in light of the mandates contained in Chapter 238 of Minnesota Statutes and applicable provisions of federal law including 47 U.S.C. § 541(a).

Passed and adopted this 5th day of September, 2000.

Member Hovland seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Resolution adopted.

Tim Gustin, explained the law firm had been retained by the City of Edina and the Southwest Suburban Cable Commission to review the qualifications of the two cable television applicants. In the review, relevant statutory procedures were followed. Each applicant must

possess three qualification standards, legal, technical and financial in order to construct, own and operate a cable communications system within Edina.

Carol Olsent, Larkin Hoffman Law Firm representing Everest Connections, commented that the proposals are nearly identical. The Everest Connection will be a 850 megahertz connection with 300 video channels. Basic cable will be 80 channels and have a price point where bundling services together will be more cost effective or at approximately \$80 per month. She believes it to be misleading to say Everest and GLA are start-up companies; they started in 1991 as a part of Brooks Fiber Company which was subsequently sold to MCI Worldcom. Management of Brooks Fiber bought back the GLA Everest component. Ms. Olsent named locations where Everest has built with great success. Major funding for the franchise is in place from Utilicorps, a company similar to NSP of Kansas City. Everest expects to announce major vendor equity in the near future as well. Ms. Olsent added that the Public Utilities Commission and the northwest suburbs deemed Everest as financially qualified to do the complete build.

Member Hovland made a motion to close the public hearing on the application for cable television franchise for Everest Connection Corporation. Member Johnson seconded the motion.

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

Member Hovland introduced the following resolution and moved its adoption:

RESOLUTION NO. 2000-93

**A RESOLUTION REGARDING RECOMMENDATIONS
WITH RESPECT TO EVEREST CONNECTIONS CORPORATION'S
PROPOSAL FOR A CABLE COMMUNICATIONS FRANCHISE**

WHEREAS, Minnesota Statutes § 238.08(a) mandates that the City require a franchise for any cable communication system providing service within the City; and

WHEREAS, Federal law at 47 U.S.C. § 541(a) provides that a city "may not unreasonably refuse to award an additional competitive franchise"; and

WHEREAS, the City carefully followed the franchise procedure required by Minnesota Statutes § 238.081 by publishing once each week (June 21, 2000, and June 28, 2000) for two successive weeks in the Sun-Current, a Notice of Intent to Franchise a Cable Communications System; and

WHEREAS, the Notice stated all eight (8) criteria outlined in Minn. Stat. § 238.081 Subd. 2; and

WHEREAS, in addition to the published Notice, the City mailed copies of the Notice of Intent and the Official Application Form to Everest Connections Corporation ("Everest"), as well as other interested parties; and

WHEREAS, the City's Official Application Form required that proposals for a cable communications franchise contain responses to each of the items identified in Minnesota Statute § 238.081 Subd. 4; and

WHEREAS, the City's closing date for submission of applications was set at July 14, 2000, which complied with the statutory minimum of 20 days from the date of first publication; and

WHEREAS, the City Council determined to call a Public Hearing to consider the application received from Everest at its regularly scheduled September 5, 2000, meeting; and

WHEREAS, all interested parties were provided an opportunity to speak to the City Council. The City Council imposed no time limitations or other constraints on presenters, and interested parties had every opportunity to present information regarding this matter; and

WHEREAS, the City carefully reviewed all information and documentation presented to it regarding Everest's proposal and qualifications to construct, own and operate a cable communications system within the City; and

WHEREAS, the City, as a member of the Southwest Suburban Cable Commission ("Commission"), retained the law firm of Moss & Barnett, a Professional Association to assist the Commission and City in conducting the procedure required under Minnesota Statutes §238.081 and reviewing the application submitted by Everest as well as comments and information from interested parties; and

WHEREAS, based on information and documentation made available to the City, the report dated August 3, 2000, prepared by Moss & Barnett with respect to Everest's application and the recommendation of the Commission, each of which is hereby incorporated in this Resolution by reference, the City Council has reached conclusions regarding Everest's legal, technical and financial qualifications.

NOW THEREFORE, the City hereby resolves as follows:

1. The City hereby finds that Everest's application of July 14, 2000, complies with the requirements of Minnesota Statute § 238.061; and
2. The City finds that Everest possesses the requisite legal, technical and financial qualifications to construct, own and operate a cable communications system within the City; and
3. The City has determined that an ordinance awarding a franchise to Everest should be introduced to the City Council for consideration and action; and
4. The contents of the franchise should be substantially the same as the franchise ordinance currently held by the City's existing cable television operator, KBL Cablesystems of the Southwest, Inc., doing business as Time Warner Cable ("Time Warner"), throughout the existing term of Time Warner's franchise which will expire on or about December 31, 2011.
5. A construction bond should be required of Everest as part of any franchise award to provide the City with security in the event damage to the City's rights-of-way should arise which Everest is unwilling or unable to cure.
6. Subject to all applicable laws, the City shall regulate the provision of cable television services within the City in a competitively neutral manner and shall enforce the terms and conditions of all cable communications franchises in accordance with all applicable laws and regulations in a consistent manner against all franchised cable operators so that no one operator is given an unfair competitive advantage over the other.

7. The City finds that its actions are appropriate and reasonable in light of the mandates contained in Chapter 238 of Minnesota Statutes and applicable provisions of federal law including 47 U.S.C. § 541(a).

Passed and adopted this 5th day of September, 2000.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Resolution adopted.

***RESOLUTION RELATING TO MLC JOINT AND COOPERATIVE AGREEMENT**
Motion made by Member Johnson and seconded by Member Hovland approving the following resolution:

**RESOLUTION NO. 2000-88
A RESOLUTION RELATING TO THE
MUNICIPAL LEGISLATIVE COMMISSION
JOINT AND COOPERATIVE AGREEMENT**

BE IT RESOLVED, by the City Council of the City of Edina, Minnesota, as follows:

WHEREAS, Minnesota Statutes Section 471.59 permits two or more governmental units, by agreement of their governing bodies, to jointly and cooperatively exercise any power common to each of them; and

WHEREAS, the parties have entered into this Joint and Cooperative Agreement to develop programs on matters of mutual concern and interest and identify, review and actively oppose proposals which may be in conflict with the interest of the members.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Mr. are hereby authorized and directed to execute the Joint and Cooperative Agreement as amended and attached hereto.

Adopted this 5th day of September, 2000.

Motion carried on rollcall vote - five ayes.

"EDINA VISION 20/20" UPDATE GIVEN Mr. Hughes informed the Council that throughout the strategic planning process, "Edina Vision 20/20", the public has been encouraged to participate and feedback encouraged. Recently, community members were twice asked their opinion of the City's proposed mission and vision statements and long-range plan. Each time, letters were sent to various community leaders and documents posted on the City's website for feedback. To date, approximately 12 responses have been received via letter, e-mail and telephone. Residents who responded were pleased with the plan labeling it "comprehensive", "responsive", and "a good beginning". Each respondent did offer suggestions as well. Mr. Hughes presented a summary of the resident comments. He reported staff has taken all of the comments into consideration and an executive summary will be prepared for wider distribution.

Member Johnson made a motion adopting the "Edina Vision 20/20" strategic planning final document as presented. Member Faust seconded the motion.

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

*RESOLUTION 2000-86 AUTHORIZING EXECUTION OF DOCUMENTS FOR 494/169 PROPERTY Motion made by Member Johnson and seconded by Member Hovland introducing the following resolution:

RESOLUTION NO. 2000-86
RESOLUTION APPROVING EXECUTION OF DEED
AND OTHER DOCUMENTS IN CONNECTION WITH SALE
OF CERTAIN REAL PROPERTY OF THE CITY
(494/169 Property)

BE IT RESOLVED by the City Council of the City of Edina (the "City"), as follows:

Section 1. Recitals.

The City has entered into a Purchase Agreement (the "Purchase Agreement") dated November 15, 1999, with DRF Holding LLC (the "Purchaser") in which provides the sale by the City of certain real property to the Purchaser.

Section 2. Execution of Deed and Other Documents.

The Mayor and City Mr. are hereby authorized and directed on behalf of the City to execute and deliver the deed transferring title to the real property to be sold by the City to the Purchaser pursuant to the Purchase Agreement, and to execute and deliver on behalf of the City any other documents to be executed and delivered by the City in connection with such sale.

Motion carried on rollcall vote - five ayes.

*RESOLUTION NO. 2000-89 HEARING DATE OF OCTOBER 5, 2000, SET FOR VACATION OF UTILITY EASEMENT FOR LOTS 5 AND 6, BLOCK 1 (BRENDAN GLEN) Motion made by Member Johnson and seconded by Member Hovland approving the following resolution:

RESOLUTION 2000-89
RESOLUTION SETTING PUBLIC HEARING
DATE OF OCTOBER 5, 2000, FOR VACATION OF UTILITY EASEMENT
FOR LOTS 5 AND 6, BLOCK 1, BRENDAN GLEN

BE IT RESOLVED BY THE EDINA CITY COUNCIL, that the Council shall meet at 7:00 P.M. on the 5th day of October, 2000, in the Council Chambers of Edina City Hall, to consider the vacation of utility easement for Lots 5 and 6, Block 1, Brendan Glen.

BE IT FURTHER RESOLVED, the City Clerk shall give mailed and published notice of such hearing and improvement as required by law.

Adopted this 5th day of September, 2000.

Motion carried on rollcall vote - five ayes.

*RESOLUTION NO. 2000-85 SUPPORTING LEAGUE OF MINNESOTA CITIES "BUILDING QUALITY COMMUNITIES" CAMPAIGN Motion made by Member Johnson and seconded by Member Hovland approving the following resolution:

RESOLUTION NO. 2000-85

**RESOLUTION AUTHORIZING
COMMITMENT TO "MINNESOTA CITIES: BUILDING QUALITY
COMMUNITIES" EFFORT WITH LEAGUE OF MINNESOTA CITIES**

WHEREAS, the top values and priorities of citizens include safety, family, job opportunities, health, the well-being of children and recreational opportunities; and

WHEREAS, many of the services cities provide directly enhance those citizen priorities; and

WHEREAS, the connection between city services and how they benefit citizen priorities and concerns is not always understood by citizens; and

WHEREAS, it is one of the responsibilities of city officials to ensure legislators, media and citizens understand their governments through open and frequent communication using various avenues and means; and

WHEREAS, it is important to encourage citizens to actively participate in city government, to share their views and to work in partnership with city officials to ensure that the needs of the community are met; and

WHEREAS, partnerships developed between citizens and city officials can result in greater understanding of the connection between Minnesota's high quality of life and the services provided by Minnesota cities, as well as in greater trust by citizens of the efforts of their city government;

NOW THEREFORE BE IT RESOLVED that the City of Edina hereby declares its commitment to join in the "Minnesota Cities: Building Quality Communities" statewide educational effort in cooperation with our fellow members of the League of Minnesota Cities.

Motion carried on rollcall vote - five ayes.

***SUMMARY OF THE EIS FOR RICHFIELD BEST BUY REDEVELOPMENT PRESENTED**

Motion made by Member Johnson and seconded by Member Hovland acknowledging receipt of the summary of the Environmental Impact Statement for the Richfield Best Buy redevelopment.

Motion carried on rollcall vote - five ayes.

CONCERNS OF RESIDENTS

Bill Berg, 5525 Hansen Road, read a letter he had submitted to the Council regarding the use of Garden Park as a staging site by the City for their projects. He noted that C.P. Kennedy of The Westchester, 5525 Hansen Road #111, wrote with similar concerns as well as Jack Anderes, 5525 Hansen Road #106. Staff responded that the area would be monitored more closely and cleaned up.

***HEARING DATE OF OCTOBER 3, 2000, SET FOR TAX RATE INCREASE Motion made by Member Johnson and seconded by Member Hovland setting October 3, 2000, as hearing date for authorizing a property tax increase.**

Motion carried on rollcall vote - five ayes.

RESOLUTION NO. 2000-90 APPROVED SETTING MAXIMUM TAX LEVY Mr. Hughes explained that the maximum proposed tax levy of \$14,438,346 on total expenditures of \$20,647,425 is proposed. The levy and expenditure amounts are the amounts agreed to

during the budget assumption meetings. The proposed tax levy of \$14,438,346 if approved, becomes the maximum allowed levy and cannot be increased beyond this amount. The expenditure budget of \$20,647,425 may be increased or decreased in the budget process as long as the tax levy is not increased.

Member Johnson introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2000-90
A RESOLUTION ADOPTING PROPOSED
BUDGET FOR THE CITY OF EDINA FOR YEAR 2001,
AND ESTABLISHING THE PROPOSED
TAX LEVY PAYABLE IN 2001**

THE CITY COUNCIL OF THE CITY OF EDINA, MINNESOTA, DOES RESOLVE AS FOLLOWS:

Section 1: The Budget for the City of Edina for calendar year 2001, is hereby proposed as follows:

TOTAL GENERAL FUND **\$20,647,425**

Section 2. Estimated receipts other than General Tax Levy, including HACA Aid, are hereby proposed as follows:

TOTAL ESTIMATED RECEIPTS **\$ 6,209,079**

Section 3. That there is proposed to be levied upon all taxable real and personal property in the City of Edina a tax rate sufficient to produce the amount as follows:

FOR GENERAL FUND **\$14,438,346**

Member Hovland seconded the motion.

Rollcall: Faust, Hovland, Johnson, Kelly, Maetzold

Resolution adopted.

RESOLUTION NO. 2000-91 TRUTH IN TAXATION HEARING AND BUDGET ADOPTION DATES SET

Director Wallin presented a calendar of dates available to hold the City's Truth in Taxation hearings. He recommended the Council set Monday, December 4, 2000, at 5:00 P.M. for the Truth in Taxation initial hearing and Monday, December 11, 2000, at 5:00 P.M. for the continuation hearing; and Tuesday, December 19, 2000, for the budget adoption hearing.

Member Hovland introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2000-91
A RESOLUTION SETTING HEARING DATES FOR
TRUTH IN TAXATION HEARINGS AND BUDGET ADOPTION**
WHEREAS, the City of Edina is required to inform Hennepin County of its Truth in Taxation Hearing dates as well as the Budget Adoption Hearing date:

NOW, THEREFORE, the City Council sets:

TRUTH IN TAXATION HEARING DATES:

Monday - December 4, 2000 **5:00 P.M.**

Monday - December 11, 2000 **5:00 P.M.**

BUDGET ADOPTION HEARING DATE:

Tuesday - December 19, 2000

7:00 P.M.

Passed this 5th day of September, 2000. Member Johnson seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Resolution adopted.

CLAIMS PAID Motion made by Member Hovland approving payment of the following claims as shown in detail on the Check Register dated August 31, 2000, and consisting of 74 pages: General Fund \$1,739,826.43; CDBG \$10,847.00; Communications \$3,651.00; Working Capital \$61,499.34; Construction Fund \$59,180.87; Art Center Fund \$21,341.38; Golf Dome Fund \$914.49; Aquatic Center Fund \$9,873.47; Golf Course Fund \$70,638.34; Ice Arena Fund \$23,246.40; Edinborough/Centennial Lakes \$43,094.71; Liquor Fund \$404,994.44; Utility Fund \$342,157.41; Storm Sewer Utility Fund \$5,921.73; HRA Fund \$768.08; Payroll Fund \$170,000.00; TOTAL \$2,967,955.09. Member Johnson seconded the motion.

Rollcall:

Ayes: Faust, Hovland, Johnson, Kelly, Maetzold

Motion carried.

There being no further business on the Council Agenda, Mayor Maetzold adjourned the Council Meeting at 8:40 P.M.

City Clerk